MOTION FILED
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IN THE

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1965.

No. 1046.

PEOPLE OF THE STATE OF ILLINOIS ex rel. GEORGE MUSSO,
Madison County Treasurer and Ex-Officio Collector of Taxes of Madison County, Illinois,
Appellant,

vs.

CHICAGO, BURLINGTON AND QUINCY RR. CO., CHICAGO & NORTHWESTERN RR. CO., GULF, MOBILE AND OHIO RR. CO., CHICAGO AND EASTERN ILLINOIS RR. CO., ILLINOIS CENTRAL RR. CO., NEW YORK CENTRAL RR. CO., NEW YORK, CHICAGO & ST. LOUIS RR. CO., WABASH RR. CO., PENNSYLVANIA RR. CO., ILLINOIS TERMINAL RR. CO., ALTON & SOUTHERN RR. CO., and TERMINAL RAILROAD ASSOCIATION OF ST. LOUIS,
Appellees.

On Appeal from the Supreme Court of Illinois.

MOTION FOR LEAVE TO FILE BRIEF AMICI CURIAE

and

BRIEF FOR THE ILLINOIS ASSOCIATION OF SCHOOL BOARDS AND THE ILLINOIS MUNICIPAL LEAGUE.

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Appellees.

On Appeal from the Supreme Court of Illinois.

MOTION OF ILLINOIS ASSOCIATION OF SCHOOL BOARDS AND ILLINOIS MUNICIPAL LEAGUE FOR LEAVE TO FILE BRIEF AMICI CURIAE IN SUPPORT OF APPELLANT'S JURISDICTIONAL STATEMENT AND IN OPPOSITION TO APPELLEES' MOTION TO DISMISS OR AFFIRM.

Illinois Association of School Boards and Illinois Mnnicipal League respectfully move for leave to file the accompanying brief amici curiae in support of appellant's Jurisdictional Statement and in opposition to appellees' Motion to Dismiss or Affirm and represent as follows:

1. Illinois Association of School Boards is an association organized pursuant to Article 23 of the Illinois School

Code, ILL. REV. STAT., c. 122, §§ 23-1–23-8 (1965). The Association represents more than 1,000 Illinois school districts which educate more than 96% of the public school children of Illinois. More than 50% of the property tax revenues of Illinois have been expended by public school districts.

2. Illinois Municipal League is a not-for-profit corporation organized under the laws of Illinois in 1914. It represents approximately 900 cities, villages and incorporated towns. In 1963, at least 20% of the property tax revenues of Illinois were expended by municipalities.

3. Both movants have obtained the consent of attorneys for the appellant under the rules of this court. The appellees have refused consent to the filing of a brief by the Illinois Municipal League and the Illinois Association of School Boards as *amici curiae.*

4. Both the Illinois Association of School Boards and the Illinois Municipal League were *amici curiae* in *People ex rel. Korzen v. CB&Q,* 32 Ill. 2d 554, 209 N. E. 2d 649 (1965) (Cook County). The appellees failed to disclose this fact to this Court and at the top of page 37 of their Motion describe the State Association of School Boards as "an association of school boards." Furthermore, the appellees omitted mention of the Illinois Municipal League even though they refer to "briefs *amici curiae.*" As a matter of fact movants did not file "briefs" but filed one "'Petition for Leave to Appear as *Amici Curiae*" in *Korzen* which included some suggestions. The identity of your movants as *amici curiae* in the *Korzen* case is not revealed in the opinion of the Supreme Court of Illinois nor is the identity of *amici curiae* mentioned in the Northeastern Reporter. At pages 36-37 of their Motion, the appellees mislead this Court by characterizing the record in the *Korzen* case and the case at bar as "practically identical" and by representing that the movants

here urged the Supreme Court of Illinois in *Korzen* to "re-examine the principles" of the seven quoted cases at pages 27-37 of Appellees' Motion to Dismiss or Affirm. Not only was the record in *Korzen* quite different from the record in the case at bar but also your movants did not ask the Supreme Court of Illinois to re-examine the principles of those cases. Your movants' Petition filed in the *Korzen* case on March 10, 1965, did not mention or cite one case. It made the argument that the evidence in the record rebutted the statutory presumption of full value assessment of railroad property by the Director of Revenue and constitutional issues were not emphasized. The record at the bar of this Court is in important respects fundamentally different from the record in the *Korzen* case. The legal questions emphasized in this case to the Supreme Court of Illinois and to this Court by the appellant here are fundamentally different from those presented and argued in the Cook County appeal to the Supreme Court of Illinois. The record in the *Korzen* case did not include crucial evidence relating to the failure of the successive heads of the Department of Revenue, State of Illinois, after 1946 to equalize local assessments at full value. The record before this Court does contain this important evidence which is directly related to the method by which railroad property was assessed by the said Department in the years 1949 through 1962.

5. Both movants, representing the school districts and municipalities of Illinois, are vitally interested in this case. The granting by this Court of plenary consideration to the questions presented will affect the schools and the cities because the shift of property tax burden to non-railroad property ordered by the Supreme Court of Illinois affects the workability of the property tax system. Also, there are substantial sums of protested and escrowed property tax monies in Madison, Sangamon and Cook Counties, and perhaps elsewhere, which will be distributed

to the railroads instead of the schools and cities, unless relief can be obtained in this Court.

6. Appellees' Motion has described the public importance of this case as "greatly exaggerated." Movants have special knowledge, as well as a special responsibility, and desire to inform this Court that the Appellees' statement incorrectly belittles the public interest.

7. Movants believe that they can make a short but significant contribution by clarifying certain misrepresentations of the railroads and informing the court in limited detail of the increasing voter resistance being encountered as the result of the mounting property tax burden even before allowing for the increase of that burden effectuated by constitutional decisions of the Supreme Court of Illinois 1961-1965.

Wherefore, Movants pray that this Court enter its order granting leave to file the attached brief.

Respectfully submitted,

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